

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAVID J. SCOTT,

Plaintiff,

Hon. Richard Alan Enslen

v.

Case No. 1:03-CV-448

DALE FELDPAUSCH and  
STEVE BROWN,

Defendants.

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**ORDER DENYING LEAVE TO  
PROCEED *IN FORMA PAUPERIS* ON APPEAL**

This matter is before the Court on Defendant Feldpausch's Motion for Reconsideration of July 5, 2005 Order Granting Plaintiff's Motion to Proceed On Appeal *In Forma Pauperis*. (Dkt. No. 107). On March 21, 2005, Judgment was entered in this matter in favor of Defendant Feldpausch, a determination which Plaintiff subsequently appealed. (Dkt. Nos. 87-88, 93, 101, 103). As part of his appeal, Plaintiff moved the Court for leave to proceed as a pauper. (Dkt. No. 104). The Court granted Plaintiff's motion, (Dkt. No. 106), a determination which Defendant now challenges.

When evaluating Plaintiff's motion to proceed as a pauper on appeal, the Court observed that Plaintiff was granted pauper status at the initiation of this matter. (Dkt. No. 5). However, the Court failed to discern that Plaintiff's pauper status was later revoked in light of the fact that he has, on three or more occasions, filed lawsuits which were subsequently determined to be frivolous and/or failed to state a claim. (Dkt. No. 12). Thus, the Order granting Plaintiff leave to proceed as a pauper on appeal

was erroneously granted. In light of this oversight, the Court hereby grants Defendant's motion and orders the following:

**IT IS HEREBY ORDERED** that Defendant Feldpausch's Motion for Reconsideration (Dkt. No. 107) is **GRANTED**.

**IT IS FURTHER ORDERED** that the Order granting Plaintiff leave to proceed in forma pauperis on appeal (Dkt. No. 106) is **VACATED**.

**IT IS FURTHER ORDERED** that Plaintiff is **DENIED** leave to proceed *in forma pauperis* on appeal because he has three strikes pursuant to 28 U.S.C. § 1915(g).

**IT IS FURTHER ORDERED** that within thirty days of the date of this Order, Plaintiff shall pay the \$255.00 appellate filing fee to the Clerk of this Court. Plaintiff's failure to comply with this Order will result in the dismissal of his appeal without prejudice and the assessment of the \$255.00 appellate filing fee.

DATED in Kalamazoo, MI:  
July 19, 2005

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
UNITED STATES DISTRICT JUDGE